

Remarks

Upon entry of this amendment, claims 189-200 will be pending in the above-captioned application. Claims 183-188 have been canceled without prejudice or disclaimer. Applicants retain the right to pursue the canceled subject matter in related divisional applications.

Claims 189 and 195 have been amended to recite “wherein said polypeptide stimulates proliferation of epithelial cells.” Support for this amendment is found in the specification as filed and, for example, at original claim 37.

Accordingly, no new matter has been introduced and entry of this amendment is respectfully solicited.

Rejections Under 35 U.S.C. §112, First Paragraph

The Examiner has maintained the rejection of claims 183-200 under 35 U.S.C. § 112, first paragraph for allegedly containing new matter. In particular, the Examiner alleges that the specification does not “contemplate percent identity with any particular fragment of KGF-2,” in particular, the deletion mutant Ser (69) - Ser (208). Moreover, the Examiner alleges that the specification does not contemplate “a mutant protein with which has the function of being bound by an antibody that binds to the protein of SEQ ID NO:2.” *See*, Paper No. 26, page 3.

Applicants respectfully disagree and traverse this rejection. However, in the interest of facilitating prosecution and in no way in acquiescence to the Examiner’s rejection, Applicants have canceled claims 183-188. Applicants have also amended claims 189 and 195 to be directed to polypeptides with 95% and 97% identity to Ser (69) – Ser (208), respectively, which stimulate proliferation of epithelial cells. Support for these amended claims can be found, for example, in original claims 5, 26, and 37, as discussed below.

Applicants note that the cancellation of claims 183-188 renders the rejection of these claims moot. In addition, contrary to the Examiner’s arguments, Applicants maintain that the specification clearly contemplates the subject matter of the currently pending claims (e.g., polypeptides with 95% or 97% percent identity to Ser (69) - Ser (208) of SEQ ID NO:2). Not only can support be found in the specification, for example,

at page 36, lines 10-15, but the original claims as filed also encompass polypeptides with percent identity to deletion mutants, in particular Ser (69) – Ser (208) of SEQ ID NO:2. For example, original claim 5 is explicitly directed to polypeptides with an amino acid sequence that is 95% identical to Ser (69) – Ser (208) of SEQ ID NO:2. Similarly, original claim 26 is directed to polypeptides with an amino acid sequence that is 97% identical to Ser (69) – Ser (208). Thus, the specification provides explicit written description for polypeptides with percent identity to Ser (69) – Ser (208).

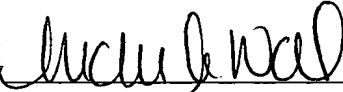
In addition, polypeptides with percent identity to Ser (69) – Ser (208) that stimulate proliferation of epithelial cells is also fully described in the specification as filed. For example, original claim 37 encompasses isolated polypeptides with 95% or 97% identity to Ser (69) – Ser (208) that stimulate proliferation of epithelial cells. Thus, these original claims, in addition to the description of the specification as originally filed, provide clear support for amended claims 189-200. Applicants further note that original claims 5, 26, and 37 were also filed as original claims in the parent application, U.S. Application No. 09/023,082 (now U.S. Patent No. 6,077,692), on August 13, 1996. Thus, these claims are clearly supported by the specification as of the earliest priority date of the present application. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 112, first paragraph for new matter.

Conclusion

Applicants respectfully request that the above-made remarks and amendments be entered and made of record in the file history of the instant application. In view of the foregoing remarks, Applicants believe that this application is now in condition for allowance, and an early notice to that effect is urged. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicant would expedite the allowance of this application. If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: December 1, 2003

Respectfully submitted,

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